

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

DARREN ROY MACK,  
 Petitioner,

vs.

E.K. MCDANIEL, *et al.*,  
 Respondents.

3:12-cv-00104-RCJ-VPC

**ORDER**

This is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in which petitioner, a state prisoner, is proceeding with representation of counsel. On June 25, 2012, respondents filed a motion to disqualify petitioner's counsel. (ECF No. 7.) Petitioner failed to oppose respondents' motion to disqualify counsel within the time period provided by Local Rule 7-2 (b). On August 3, 2012, the court issued an order requiring petitioner to show cause within ten days why respondents' motion to disqualify counsel should not be immediately granted. (ECF No. 11.) Petitioner has also failed to respond to the court's August 3, 2012 order.

Respondents argue that petitioner's counsel, Richard F. Cornell, Esq., should be disqualified from representing petitioner in this action because: (1) Cornell has a conflict of interest in representing petitioner due to his participation in petitioner's criminal defense; and (2) Cornell is likely a necessary witness in this case due to his participation in petitioner's criminal defense. Pursuant to the provisions

1 Local Rule 7-2 (d), Petitioner's failure to respond to the motion is a concession on his part that the  
2 arguments are valid. Accordingly, the court grants respondents' motion and disqualifies Richard F.  
3 Cornell, Esq. from representing petitioner in this case.

4 Because petitioner's counsel is disqualified from representing him in this action, the court denies  
5 petitioner's motion to stay (ECF No. 3) without prejudice.

6 **IT IS THEREFORE ORDERED** that respondents' motion to disqualify counsel (ECF No. 7)  
7 is **GRANTED**. Richard F. Cornell, Esq. is **TERMINATED** as counsel of record for petitioner as of  
8 the date of entry of this order.

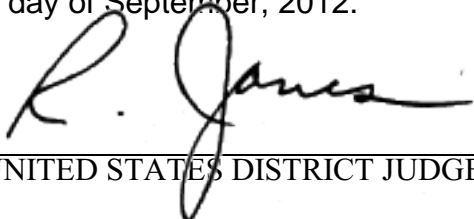
9 **IT IS FURTHER ORDERED** that petitioner's motion to stay (ECF No. 3) is **DENIED without**  
10 **prejudice**.

11 **IT IS FURTHER ORDERED** that respondent's motion for an extension of time (ECF No. 8)  
12 is **DENIED as moot**.

13 **IT IS FURTHER ORDERED** that the clerk **SHALL SEND** petitioner a copy of this order at  
14 Ely State Prison.

15 **IT IS FURTHER ORDERED** that petitioner shall file a notice **within thirty (30) days** of the  
16 date of this order advising the court whether he will proceed *pro se* or with other retained counsel in this  
17 action. Failure to do so may result in the dismissal of this action.

18  
19 DATED this 6th day of September, 2012.

20   
21 UNITED STATES DISTRICT JUDGE  
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